# TITLE 32.—NATIONAL GUARD

*This title was enacted by act Aug. 10, 1956, ch. 1041, § 2, 70A Stat. 596*

## Chapter 1.—ORGANIZATION

Sec.
107. Availability of appropriations.

AMENDMENTS

1971—Pub. L. 92–119, § 1(b), Aug. 13, 1971, 85 Stat. 340, substituted in item 107 "Availability" for "Apportionment".

### § 101. Definitions.

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

(1) "Territory" means any Territory organized after this title is enacted, so long as it remains a Territory. However, for purposes of this title and other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, "Territory" includes the Virgin Islands.

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(As amended Oct. 13, 1972, Pub. L. 92–492, § 2(a), 86 Stat. 810.)

AMENDMENTS

1972—Cl. (1). Pub. L. 92–492 added provision including within the term "Territory" for the purposes of this title and other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the Virgin Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323; title 10 section 101.

### § 107. Availability of appropriations.

(a) Under such regulations as the Secretary concerned may prescribe, appropriations for the National Guard are available for—

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(b) The expenses of enlisted members of the Regular Army or the Regular Air Force on duty with the National Guard shall be paid from appropriations for the Army National Guard or the Air National Guard, as the case may be, but not from the allotment of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia. Payable expenses include allowances for subsistence and quarters under sections 402 and 403 of title 37 and expenses for medicine and medical attendance. (As amended Aug. 13, 1971, Pub. L. 92–119, § 1(a), 85 Stat. 340.)

AMENDMENTS

1971—Pub. L. 92–119, § 1(a)(1), substituted "Availability" for "Apportionment" in the catchline.

Subsec. (a). Pub. L. 92–119, § 1(a) (2), (3), (4), redesignated former subsec. (b) as subsec. (a), and in subsec. (a) as so redesignated, substituted "appropriation for the National Guard" for "apportioned appropriation". Former subsec. (a), which provided for the apportionment of appropriations for the Army National Guard and Air National Guard under prescribed formulas among the states, territories, Puerto Rico, the Canal Zone, District of Columbia, was stricken.

Subsec. (b). Pub. L. 92–119, § 1(a)(4), redesignated former subsec. (c) as subsec. (b). Former subsec. (b) redesignated subsec. (a) and amended.

Subsec. (c). Pub. L. 92–119, § 1(a)(4), redesignated former subsec. (c) as subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2511.

## Chapter 3.—PERSONNEL

### § 307. Federal recognition of officers: examination; certificate of eligibility.

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(g) Federal recognition may not be extended in the case of any member of the National Guard of the Virgin Islands in any grade above colonel. (As amended Oct. 13, 1972, Pub. L. 92–492, § 2(b), 86 Stat. 810.)

AMENDMENTS

1972—Subsec. (g). Pub. L. 92–492 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 308, 310 of this title; title 10 sections 8365, 8366, 8376.

### § 316. Detail of members of Army National Guard for rifle instruction of civilians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 2024.

## Chapter 5.—TRAINING

### § 502. Required drills and field exercises.

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall—

(1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and

(2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required member ship in the National Guard.

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(As amended Nov. 17, 1971, Pub. L. 92–156, title III, § 303(b), 85 Stat. 425.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–156 inserted exception to training requirements where member served on active duty for one year or more if the training period falls

during last one hundred and twenty days of required membership in National Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 318, 320, 321, 715 of this title; title 5 section 3551; title 10 sections 268, 701, 1208, 1332, 1333, 3571, 3686, 8571, 8686; title 37 section 204; title 38 sections 101, 765, 2024; title 50 App. section 456.

§§ 503 to 505.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 38 section 2024.

## Chapter 7.—SERVICE, SUPPLY, AND PROCUREMENT

Sec.
716. Claims for overpayment of pay and allowances, other than travel and transportation allowances.

AMENDMENTS

1972—Pub. L. 92-453, § 2(2), Oct. 2, 1972, 86 Stat. 759, added item 716.

### § 708. Property and fiscal officers.

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(b) Each property and fiscal officer shall—

(1) Repealed. Pub. L. 92-310, title II, § 207, June 6, 1972, 86 Stat. 203.

* * * * *

(As amended June 6, 1972, Pub. L. 92-310, title II, § 207, 86 Stat. 203.)

AMENDMENTS

1972—Subsec. (b)(1). Pub. L. 92-310 repealed provisions which related to the bond required of property and fiscal officers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 771a, 1007.

### § 709. Technicians: employment, use, status.

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(h) In no event shall the number of technicians employed under this section at any one time exceed 53,100, except that the number of technicians so employed may not exceed 49,200 during the fiscal year beginning July 1, 1971. (As amended Aug. 13, 1971, Pub. L. 92-119, § 2, 85 Stat. 340.)

AMENDMENT

1971—Subsec. (h). Pub. L. 92-119 increased the number of technicians employable under the section from 42,500 to 53,100 with the exception that such number is fixed at 49,200 for the fiscal year beginning July 1, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 715 of this title; title 5 sections 2105, 8332; title 10 sections 3848, 3851, 8848, 8851; title 42 section 418.

### § 715. Property loss; personal injury or death: activities under certain sections of this title.

(a) Under such regulations as the Secretary of the Army or Secretary of the Air Force may prescribe, he or, subject to appeal to him, the Judge Advocate General of the armed force under his jurisdiction, if designated by him, may settle and pay in an amount not more than $25,000 a claim against the United States for—

* * * * *

(b) A claim may be allowed under subsection (a) only if—

* * * * *

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee, or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

* * * * *

(d) If the Secretary of the military department concerned considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant $25,000 and report the excess to Congress for its consideration.

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(f) In any case where the amount to be paid is not more than $5,000, the authority contained in subsection (a) may be delegated to any officer of the Army or the Air Force, as the case may be, who has been delegated authority under section 2733(g) of title 10, to settle similar claims, subject to appeal to the Secretary concerned, or his designee for that purpose.

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(As amended Pub. L. 92-445, Sept. 29, 1972, 86 Stat. 745; Pub. L. 93-336, § 3, July 8, 1974, 88 Stat. 292.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-336, § 3(1), substituted "$25,000" for "$15,000".

Subsec. (d). Pub. L. 93-336, § 3(2), substituted "$25,000" for "$15,000" wherever appearing.

Subsec. (f). Pub. L. 93-336, § 3(3), substituted "$5,000" for "$2,500".

1972—Subsec. (b)(4). Pub. L. 92-445 added provision that the claim may be allowed to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under similar circumstances, when the damage to or loss of property, or personal injury or death was caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2736.

### § 716. Claims for overpayment of pay and allowances, other than travel and transportation allowances.

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after the effective date of this section, to or on behalf of a member or former member of the National Guard, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Comptroller General; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than $500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of pay or allowances, other than travel and transportation allowances, was discovered.

(c) A person who has repaid to the United States all cr part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States. (Added Pub. L. 92-453, § 2(1), Oct. 2, 1972, 86 Stat. 759.)

REFERENCES IN TEXT

Effective date of this section, referred to in subsec. (a), means the effective date of Pub. L. 92-453, which was approved Oct. 2, 1972.